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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,486	07/28/2000	Paranthaman Narendran	PANA-1000	3143

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EXAMINER

TRAN, THIEN D

ART UNIT PAPER NUMBER

2665

DATE MAILED: 02/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/627,486

Applicant(s)

NARENDRAN, PARANTHAMAN

Examiner

Thien D Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being participated by Riggan et al (U.S Patent No. 6,490,252 B1).

Regarding claim 1, Riggan discloses a system for real-time buying and selling of bandwidth, and routing of excess traffic over bandwidth purchased in real time, the system comprising:

a node 300 (router) that routes a plurality of data packets from a number of network users to a number of backbone providers, the router having (col.5 lines 30-45):

a number of input ports that receive the data packets, a number of output ports that transmit the data packets to the backbone providers, switching circuitry that connects each input port to each output port (col.6 lines 30-40),

a switch controller or CPU 302 or network management system 206 (traffic measuring circuitry) that measures a traffic level on each of the input ports, identifies

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types of data packets, and outputs traffic information in response thereto (col.5 lines 35-38, col.6 lines 45-60),

a CPU 302 (switch controller) that receives the traffic information from the traffic measuring circuitry and a number of routing instructions, and controls the switching circuitry in response thereto (col.6 lines 55-65); and

a CPU 356 (route optimizer) connected to the router, the CPU 356 receiving signals (operating instructions), and generating the routing instructions for each input port in response thereto, the routing instructions including a first routing instruction that identifies an output port connected to a fixed-capacity bandwidth provider that can receive data packets up to a first traffic level, and a second routing instruction that indicates that data packets in excess of the first traffic level are to be output to a usage-based bandwidth provider that offers capacity on an as-needed basis (col.8 lines 5-35).

Regarding claim 2, Riggan discloses the route optimizer identifies the usage-based bandwidth provider as a lowest cost provider from a list of providers that have capacity to a destination (col.6 lines 65-67).

Regarding claim 3, Riggan discloses that the route optimizer identifies the usage-based bandwidth provider as a lowest cost provider that meets a predetermined maximum response time (col.5 lines 30-35).

Regarding claim 4, Riggan discloses the route optimizer measures response times to end destinations provided by the usage based bandwidth providers (col.9 lines 9-11).

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Regarding claim 5, Riggan discloses comprising a billing system that collects raw transaction data that indicates a bandwidth provider that has received an outgoing data packet (col.10 lines 10-30).

Regarding claim 6, Riggan discloses comprising a trading platform that outputs the operating instructions in response to user instructions (col.11 lines 1-15).

Regarding claims 7, 8, Riggan discloses a right to output data packets to the fixed capacity bandwidth provider is secured prior to the traffic level exceeding the first traffic level (col.10 lines 35-45).

Regarding claims 9, 13, Riggan discloses that the routing instructions further include a real-time overflow capacity routing instruction that indicates that overflow traffic from the network user is to be output to a best backbone provider at the time the overflow traffic occurs (col.8 lines 5-35).

Regarding claims 10-12, Riggan discloses a method for handling overflow traffic for a bandwidth user that has purchased a total fixed amount of bandwidth capacity, the bandwidth user outputting traffic to an input port, the traffic having a traffic level, the method comprising the steps of:

- a switch controller or CPU 302 or network management system 206 for monitoring the traffic level on the input port;

- determining if the traffic level is near the total fixed amount of bandwidth capacity;

- if near, determining if the bandwidth user wishes to reroute overflow traffic;

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if the bandwidth user wishes to reroute overflow traffic, determining if the bandwidth user has selected a provider to handle overflow traffic; and

if the bandwidth user has not selected a provider to handle overflow traffic, purchasing capacity to handle the overflow traffic when the traffic level exceeds the total fixed amount of bandwidth capacity (col.5 lines 35-38, col.6 lines 45-60).

Regarding claims 14, 15, Riggan discloses a method for routing data traffic from a start point to an end destination, a plurality of bandwidth providers being connected to the start point and providing service to the end destination, the method comprising the steps of:

continually measuring an amount of time required to send data to the end destination on each of the bandwidth providers that provide service to the end destination;

statistically measuring the amount of time to form a measured response time;

assigning each bandwidth provider to one of a range of response times based on the measured response time (col.8 lines 45-65).

Regarding claims 16-18, Riggan discloses a method for ranking a list of bandwidth providers that provide service from a start point, the bandwidth providers including backbone providers and bandwidth resellers, the method comprising the steps of:

identifying each backbone provider that provides service from the start point to an end destination to form a list of backbone providers for the end destination;

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removing backbone providers from the list of backbone providers when the backbone providers indicate that usage-based capacity is not available for sale to form a modified list of backbone providers;

forming a list of sellers from the modified list of backbone providers by adding bandwidth resellers to the list when the bandwidth resellers have excess capacity on a backbone provider on the list of backbone providers, and by updating the list of sellers which have more or less capacity available due to a sale; and

ranking the list of sellers according to a factor. See col.5 lines 30-45 and col.6 lines 45-65.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Endo et al (US Patent No. 4,964,119) discloses method and system for packet exchange.

-Farris et al (US Patent No. 6,064,653) discloses internetwork gateway to gateway alternative communication.

-Kunzinger (US Patent No. 6,011,777) discloses use of shared table in operation of segmented ATM connections.

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4. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thien Tran whose telephone number is (703) 308-4388. The examiner can normally be reached on Monday-Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on (703) 305-4744. Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Thien Tran

A handwritten signature in black ink, appearing to read "Alpus H. Hsu", is written over a horizontal line.

**ALPUS H. HSU
PRIMARY EXAMINER**